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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/646,676 | 08/22/2003 | James Prescott | 28926 / 04000 | 1016 |

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EXAMINER

DUNHAM, JASON B

ART UNIT PAPER NUMBER

3625

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,676

Applicant(s)

PRESCOTT, JAMES

Examiner

Jason B. Dunham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of blurred typing in the shaded portions of the diagrams and figure labeling exceeding the boundaries of the flow chart shapes. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the software means discussed in claim 1 and 4 are not embodied in a physical medium capable of being acted upon such as a server or a computer readable disk. Claims 2-3 and 5 are dependent upon claims 1 and 4 respectively.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 rejected under 35 U.S.C. 102(b) as being anticipated by Nakfoor (U.S. Patent No. 6,496,809).

Referring to claim 1. Nakfoor discloses an Internet-based system for purchasing items on-line, comprising:

- A remote terminal for user by a consumer (Nakfoor: abstract);
- An on-line purchasing system, wherein said system further comprises a system database in communication with said remote terminal for storing both consumer information and ticket and merchandise information (Nakfoor: column 2, lines 40-65 & figure 2);
- A user interface between said remote terminal and said on-line purchasing system for allowing the exchange of information and commands between said remote terminal and said on-line purchasing system (Nakfoor: column 3, lines 30-50);
- At least one source system in communication with said on-line purchasing system for allowing vendors of tickets or merchandise to sell items on-line, wherein said source system further comprises a source database for storing current ticket and merchandise information (Nakfoor: column 3, lines 30-50);

- A communication interface between said on-line purchasing system and said source system for allowing data exchange between said system (Nakfoor: column 3, lines 30-50);
- Software means for allowing said on-line purchasing system to monitor said source system for current ticket or merchandise information and communicate said information back to said on-line purchasing system (Nakfoor: column 3, lines 30-50);
- Software means for allowing said on-line purchasing system to execute the purchase of tickets or merchandise from said source system based on said current information (Nakfoor: column 4, line 63 – column 5, line 20); and
- Software means for allowing said source system to communicate with said remote terminal to indicate the completion of said purchase to said consumer (column 2, lines 28-39 & figure 1).

Referring to claim 2. Nakfoor further discloses a system comprising software means for allowing said on-line purchasing system and said source system to communicate with a financial institution for the purpose of completing a credit card transaction (Nakfoor: column 5, lines 9-20).

Referring to claim 3. Nakfoor further discloses a system wherein said software means for allowing said on-line purchasing system to monitor said source system for ticket or merchandise information and communicate said information back to said system database is a "BOT" (Nakfoor: column 2 lines 28-39). The examiner notes that applicant describes a "BOT" as automated software for monitoring and purchasing on-

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line products. Nakfoor describes a system capable of searching venue databases for ticket information and allowing the purchase of said tickets.

Referring to claims 4-5. Claims 4-5 are rejected under the same rationale as set forth above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Spiegel (U.S. Patent No. 6,466, 918) teaches a system and method allowing user to search for and purchase merchandise on-line through a purchasing system.
- "E-commerce, technology efforts propelled Ticketmaster's year", Amusement Business, 24 December 2001, Proquest # 97934414, 4 pages.; teaches a purchasing system allowing users to search for tickets from source systems.

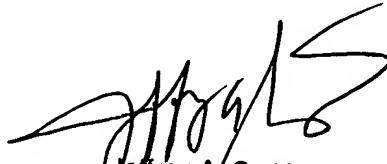
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JBD



Jeffrey A. Smith
Primary Examiner